

UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE PATENT TRIAL AND APPEAL BOARD

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MERCK SHARP & DOHME CORP.,  
Petitioner,

v.

GLAXOSMITHKLINE BIOLOGICALS SA,  
Patent Owner.

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Case IPR2018-01229 (Patent No. 8,753,645)  
Case IPR2018-01236 (Patent No. 8,753,645)  
Case IPR2018-01234 (Patent No. 9,265,839)  
Case IPR2018-01237 (Patent No. 9,265,839)  
Case IPR2019-00230 (Patent No. 9,422,345)  
Case IPR2019-00241 (Patent No. 9,422,345)

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Before SHERIDAN K. SNEDDEN, JO-ANNE M. KOKOSKI, and  
RICHARD J. SMITH, *Administrative Patent Judges*.

SNEDDEN, *Administrative Patent Judge*.

JUDGMENT<sup>1</sup>

Granting Joint Motion to Terminate Proceedings Due to  
Settlement after Institution and  
Granting Joint Motion to Treat Settlement Agreement as  
Business Confidential Information  
*35 U.S.C. § 317 and 37 C.F.R. §§ 42.5, 42.72, 42.73, 42.74*

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<sup>1</sup> This Order addresses issues that are common to all six cases. We, therefore, issue a single Order that has been entered in each case.

IPR2018-01229, -01236 (Patent No. 8,753,645)  
IPR2018-01234, -01237 (Patent No. 9,265,839)  
IPR2019-00230, -00241 (Patent No. 9,422,345)

On May 29, 2019, the parties filed a joint motion to terminate *inter partes* review pursuant to 35 U.S.C. § 317. Paper 26.<sup>2</sup> The parties filed a copy of their settlement agreement, made in connection with the termination of these proceedings, in accordance with 35 U.S.C. § 317 and 37 C.F.R. § 42.74. Ex. 1076. The parties also filed a joint motion to treat the settlement agreement as business confidential information and to be kept separate from the file of the involved patents, under 35 U.S.C. § 317(b) and 37 C.F.R. § 42.74(c). Paper 27.

The Board generally expects that a case “will terminate after the filing of a settlement agreement, unless the Board has already decided the merits.” Office Patent Trial Practice Guide, 77 Fed. Reg. 48,756, 48,768 (Aug. 14, 2012); *see* 37 C.F.R. § 42.72. In their joint motion to terminate, Patent Owner and Petitioner aver that they “have settled their disputes and have agreed to terminate the proceedings.” Paper 26, 2; *see also id.* at 3 (stating that there are no district court litigations involving any of the patents involved in these proceedings).

Upon consideration of the facts before us, we determine that it is appropriate to terminate each proceeding and enter judgment, without rendering a final written decision. *See* 37 C.F.R. §§ 42.5(a), 42.71(a), 42.73(a), 42.74. Accordingly, we grant the joint motion to terminate.

We also determine that the parties have complied with the requirements of 37 C.F.R. § 42.74(c) to have the settlement agreement treated as business confidential information and kept separate from the files

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<sup>2</sup> Identical papers were filed in each of the identified cases. Hereinafter, reference will be made to papers filed in IPR2018-01229.

IPR2018-01229, -01236 (Patent No. 8,753,645)

IPR2018-01234, -01237 (Patent No. 9,265,839)

IPR2019-00230, -00241 (Patent No. 9,422,345)

of the patent at issue in this proceeding. Thus, we grant the joint motion to treat the settlement agreement as business confidential and to keep it designated as Board only.

### ORDER

Accordingly, it is

ORDERED that the joint motion to terminate due to settlement after institution (Paper 26) is *granted*;

FURTHER ORDERED that the joint motion to treat the settlement agreement as business confidential information (Paper 27) is *granted*; and

FURTHER ORDERED that the instant proceedings are *terminated* with respect to Petitioner and Patent Owner.

IPR2018-01229, -01236 (Patent No. 8,753,645)  
IPR2018-01234, -01237 (Patent No. 9,265,839)  
IPR2019-00230, -00241 (Patent No. 9,422,345)

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